

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

940 WRIT PETITION NO.11663 OF 2022

**ARUN GOPINATH KULKARNI AND ANOTHER
VERSUS
SATISH SHRIRAM KULKARNI AND ANOTHER**

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Advocate for Petitioners : Mr. Mahesh B. Ubale

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CORAM : SANDEEP V. MARNE, J.

DATE : 24-11-2022

PER COURT :

. By this petition, petitioner has assailed the order dated 27.09.2022 passed by 2nd Jt. Civil Judge Senior Division, Ahmednagar rejecting the petitioners' - plaintiffs' application at Exh.5. By that application filed under the provisions of Order-38, Rule-5 of the Code of Civil Procedure, petitioner - plaintiff sought attachment of property of defendant no.1 before judgment.

2. Defendant no.1 in his reply filed to the application at Exh.5 disclosed that he has already sold the property on 05.06.2020 to defendant no.2. Thus, as on the date of passing of order dated 27.09.2022 defendant no.1 was no longer owner of the property of which attachment before the judgment was sought. Another aspect that has attracted the attention of the trial Court is that most of the

claims of the petitioner are prior to the year 2016, whereas the suit is filed on 21.11.2019. The trial Court has also taken note of petitioners' - plaintiffs' filing Complaint No.95 of 2015 before Consumer Court, Ahmednagar for recovery of amount while compromising the same.

3. Considering the above aspects, I am of the view that the trial Court has rightly rejected the application of the petitioner. The petition is devoid of merits and the same is dismissed without any orders as to costs.

(SANDEEP V. MARNE, J.)

GGP